

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DEMAR RAHYMES BARNES,

Petitioner,

vs.

D.W. NEVEN, *et al.*,

Respondents.

Case No. 2:14-cv-01946-RFB-PAL

ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner. The Court has reviewed the habeas petition, and it shall be served on respondents.

Petitioner has filed a motion seeking the appointment of counsel. (ECF No. 2). Pursuant to 18 U.S.C. § 3006A(2)(B), the district court has discretion to appoint counsel when it determines that the “interests of justice” require representation in a habeas corpus case. Petitioner has no constitutional right to appointed counsel in a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is within the Court’s discretion. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). The petition on file in this action is sufficiently clear in presenting the issues that petitioner wishes to bring. The issues in this case are not complex. Counsel is not justified in this instance. The motion for appointment of counsel is denied.

1 **IT IS THEREFORE ORDERED** that petitioner's motion for the appointment of counsel (ECF
2 No. 1) is **DENIED**.

3 **IT IS FURTHER ORDERED** that the Clerk shall **FILE and ELECTRONICALLY SERVE**
4 the petition upon the respondents.

5 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45)** days from entry of
6 this order within which to answer, or otherwise respond to, the petition. In their answer or other
7 response, respondents shall address all claims presented in the petition. Respondents shall raise all
8 potential affirmative defenses in the initial responsive pleading, including lack of exhaustion and
9 procedural default. **Successive motions to dismiss will not be entertained.** If an answer is filed,
10 respondents shall comply with the requirements of Rule 5 of the Rules Governing Proceedings in the
11 United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have **forty-**
12 **five (45) days** from the date of service of the answer to file a reply.

13 **IT IS FURTHER ORDERED** that any state court record exhibits filed by respondents shall
14 be filed with a separate index of exhibits identifying the exhibits by number or letter. The hard copy
15 of all state court record exhibits shall be forwarded, for this case, to the staff attorneys in the **Reno**
16 Division of the Clerk of Court. The hard copy of all exhibits submitted to the Court shall be tabbed and
17 shall be bound along the top edge of the pages.

18 **IT IS FURTHER ORDERED** that, henceforth, petitioner shall serve upon the Attorney
19 General of the State of Nevada a copy of every pleading, motion, or other document he submits for
20 consideration by the Court. Petitioner shall include with the original paper submitted for filing a
21 certificate stating the date that a true and correct copy of the document was mailed to the Attorney
22 General. The Court may disregard any paper that does not include a certificate of service. After
23 respondents appear in this action, petitioner shall make such service upon the particular Deputy
24 Attorney General assigned to the case.

25 Dated this 29th day of June, 2015.

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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE